



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XF678**

**Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; receipt of application for exempted fishing permit.

**SUMMARY:** This notice announces receipt of an exempted fishing permit (EFP) application from the Alaska Seafood Cooperative (AKSC). If granted, this EFP would allow non-pelagic trawl catcher/processor operators targeting groundfish in the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands (BSAI) to remove halibut from a trawl codend on the deck, and release those halibut back to the water in a timely manner to increase survivability. The proposed project would build on work conducted by the applicant under EFPs in 2009, 2012, and 2015 through 2017 to test methods for sorting halibut on deck of non-pelagic trawl catcher/processor vessels in the BSAI including methods to increase halibut survivability and ensure reliable catch accounting and personnel safety. The objective of the proposed project is to refine the few, remaining operational issues to yield robust methods which could be implemented to allow sorting of halibut on the deck of non-pelagic trawl vessels as a standard practice in the BSAI and GOA in the future. The specific objectives of the proposed project are to 1) continue the proven methods used in 2017 EFP operations in 2018 and 2019; 2) develop individual-

vessel deck sorting safety protocols; 3) test methods for moving fish on deck to ensure a single flow of fish, which is essential for proper catch monitoring; and 4) expand the project to the GOA to standardize operations between the BSAI and GOA and evaluate the potential for increasing halibut survivability in the GOA. This experiment has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut Act.

**DATES:** Comments on this EFP application must be submitted to NMFS on or before ***[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]***. The North Pacific Fishery Management Council (Council) will consider the application at its meeting from October 2, 2017, through October 10, 2017, in Anchorage, AK.

**ADDRESSES:** The Council meeting will be held at the Hilton Hotel, 500 W 3rd Ave, Anchorage, AK 99501. The agenda for the Council meeting is available at <http://www.npfmc.org>. You may submit comments on this document, identified by NOAA-NMFS-2017-0112, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0112](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0112), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act are available from the Alaska Region, NMFS website at <http://alaskafisheries.noaa.gov/>.

**FOR FURTHER INFORMATION CONTACT:** Brandee Gerke, 907-586-7650.

**SUPPLEMENTARY INFORMATION:** NMFS manages the domestic groundfish fisheries in the BSAI and GOA management areas under the Fishery Management Plan (FMP) for Groundfish of the BSAI and the FMP for Groundfish of the GOA, which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the BSAI and GOA groundfish fisheries appear at 50 CFR parts 600 and 679. The FMPs and the implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

The IPHC and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern

Pacific Ocean and Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982. The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary).

## **Background**

Regulations implemented by the IPHC allow Pacific halibut to be commercially harvested by the directed North Pacific longline fishery. Halibut is a prohibited species in the groundfish fishery, requiring immediate return to the sea with a minimum of injury. Halibut caught incidentally by non-pelagic trawl catcher/processors in the groundfish fisheries must be weighed on a NMFS-approved scale, sampled by observers, and returned to the ocean as soon as possible. The Council establishes annual maximum halibut bycatch allowances and seasonal apportionments adjusted by an estimated halibut discard mortality rate (DMR) for groundfish fisheries. The DMRs are based on the best information available, including information contained in the annual Stock Assessment and Fishery Evaluation report, available at <http://www.alaskafisheries.noaa.gov/>. NMFS approves the halibut DMRs developed and recommended by the IPHC and the Council for the BSAI groundfish fisheries for use in monitoring the halibut bycatch allowances and seasonal apportionments. The IPHC developed these DMRs for the BSAI groundfish fisheries using the 10-year mean DMRs for those fisheries.

Directed fishing in a groundfish fishery closes when the halibut mortality apportionment for the fishery is reached, even if the target species catch is less than the seasonal or annual quota for the directed fishery. In the case of the Bering Sea flatfish

fishery, seasons have been closed before fishery quotas have been reached to prevent the fishery from exceeding the halibut mortality apportionment.

With the implementation of Amendment 80 to the FMP on September 14, 2007 (72 FR 52668), halibut mortality apportionments were established for the Amendment 80 sector and for Amendment 80 cooperatives. Amendment 80 is a catch share program that allocates several BSAI non-pollock trawl groundfish fisheries (including the flatfish fishery) among fishing sectors, and facilitates the formation of harvesting cooperatives in the non-American Fisheries Act trawl catcher/processor sector. Though halibut mortality apportionments provide Amendment 80 cooperatives more flexibility to use available mortality, halibut mortality continues to constrain fishing in some Amendment 80 fisheries. Therefore, this sector is actively exploring ways to continue to reduce halibut mortality.

The Amendment 80 sector may also harvest groundfish in the GOA. The Amendment 80 sector does not receive fishery allocations in the GOA and the amount of each groundfish species that may be caught by the cooperative in the GOA is limited to the sideboard amounts specified in Table 27 of the 2018 GOA Groundfish Harvest Specifications. The Amendment 80 sector is subject to halibut PSC limits established for that sector in the GOA. The Amendment 80 sector GOA halibut PSC limits for 2018 are provided in Table 28 of the GOA Groundfish Harvest Specifications. The 2018 GOA Groundfish Harvest Specifications are available at:

*[https://alaskafisheries.noaa.gov/harvest-specifications/field\\_harvest\\_spec\\_year/2017-2018-841](https://alaskafisheries.noaa.gov/harvest-specifications/field_harvest_spec_year/2017-2018-841).*

Before incidentally caught halibut are returned to the sea, at-sea observers must estimate halibut and groundfish catch amounts. Regulations in 50 CFR part 679 assure that observer estimates of halibut and groundfish catch are credible and accurate, and that potential bias is minimized. For example, NMFS requires sector fishing vessels to make all catch available for sampling by an observer; prohibits vessel crew from tampering with observer samples; prohibits vessel crew from removing halibut from a codend, bin, or conveyance system prior to being observed and counted by an at-sea observer; and prohibits fish (including halibut) from remaining on deck unless an observer is present.

In 2009 and 2012, halibut mortality experiments were conducted by members of the Amendment 80 sector under EFP 09-02 (74 FR 12113, March 23, 2009) and EFP 12-01 (76 FR 70972, November 16, 2011). By regulation, all catch including halibut is moved across a flow scale below deck before the halibut is returned to the sea. Halibut mortality increases with increased handling and time out of water. Under the 2009 and 2012 EFPs, experimental methods for sorting catch on a vessel's deck allowed halibut to be returned to the sea in less time, with less handling relative to halibut routed below deck and over the flow scale. The halibut mortality during flatfish fishing under the 2009 and 2012 EFPs was estimated to be approximately 17 metric tons (mt) and 10.8 mt, respectively, less than the amounts estimated from the DMR for this fishery. The reduced halibut mortality under the 2009 and 2012 EFPs is attributed to the improved condition of halibut through reduced handling and time out of water.

In 2015, test fishing under EFP 2015-02 (80 FR 3222, January 22, 2015) expanded on results of the 2009 and 2012 EFPs to explore the feasibility of deck sorting halibut in additional fisheries, on more vessels, and during a longer interval of time

during the fishing season. The primary objective was to reduce halibut mortality in the Amendment 80 groundfish fisheries in 2015. Fishing under the EFP began in May and continued through November. The most prominent result from the 2015 EFP was that substantial halibut mortality savings were achieved from deck sorting on BSAI non-pelagic trawl catcher/processor vessels. The preliminary estimate of halibut savings under the 2015 EFP is 131 mt. For the nine vessels that participated in the 2015 EFP, all but one achieved mortality rates in the range of 41 percent to 53 percent, compared to the standard mortality rate of 80 percent in the Bering Sea flatfish fisheries without deck sorting (average across target fisheries of interest for the 2015 EFP).

EFP 2016-01 (81 FR 4018, January 25, 2016) was issued on May 6, 2016 with an effective period through April 30, 2017. EFP 2016-01 expanded on the prior EFPs and expanded test fishing with the deck sorting methods to non-pelagic trawl catcher/processors participating in trawl limited access and community development quota (CDQ) fisheries in addition to the Amendment 80 vessels. Test fishing under EFP 2016-01 from May through November 2016 resulted in more participating vessels over more fisheries and yielded greater halibut savings relative to prior years. In 2016, twelve catcher/processor vessels participated in test fishing under EFP 2016-01. In prior deck sorting EFPs, test fishing primarily occurred in the flathead sole and arrowtooth flounder fisheries. In 2016, test fishing expanded to fisheries for yellowfin sole, Pacific cod, Pacific ocean perch, and Atka mackerel to a much larger extent than in prior years. Halibut mortality is estimated to have been reduced by 288 mt through deck sorting in 2016 under EFP 2016-01.

EFP 2016-01 was modified on January 10, 2017 to allow vessel operators the option of carrying two or three observers per trip, depending on the needs of the vessel. EFP 2016-01 originally required the vessel to carry three observers. EFP fishing in 2016 demonstrated that two observers could sufficiently collect the requisite data for EFP hauls. Under modified EFP 2016–01 vessel operators may opt to carry more than two observers to maintain the pace at which fish are run through the factory while halibut are being sorted and sampled by an observer on deck or they may carry two observers with the condition that fish may not be run into the factory while the observer is on deck sampling the sorted halibut. Additional modifications to EFP 2016–01 included (a) changes in observer sampling methods designed to increase consistency of observer sampling for the EFP with other, routine observer sampling in the fisheries; (b) changes to the persons named on the EFP as designated representatives; and (c) the addition of new vessels to the EFP. On February 17, 2017, NMFS renewed modified EFP 2016-01 to be effective through December 31, 2017 (82 FR 5539, January 18, 2017). Results from the 2017 EFP are not yet available.

### **Proposed Action**

On August 29, 2017, the AKSC, an Amendment 80 cooperative, submitted an application for an EFP for 2018 and 2019 to build on the information collected in prior deck sorting EFPs and further reduce halibut mortality in the Amendment 80, CDQ, and trawl limited access sectors. The objectives of the proposed EFP for 2018 and 2019 are to test modifications to the procedures and approaches in the 2016 and 2017 EFP that 1) move substantively towards implementation of deck sorting as an allowable fish handling mode for the non-pelagic catcher/processor trawl fisheries in the BSAI and GOA; and 2)



improve on elements that worked in prior deck sorting EFPs. Consistent with 2016 and 2017 methods, the EFP would allow crew on board catcher/processors to sort halibut removed from a codend on the deck of the vessel. Those sorted halibut could be released back to the water after the halibut are measured by the observer for length and tested for physical condition using standard IPHC viability assessment methods.

The applicants propose to test several new aspects that would inform a future, operationalized deck sorting process in Federal regulations:

- 1) Expand deck sorting methods to non-pelagic trawl catcher/processor vessels in the GOA;
- 2) Require vessel-specific deck sorting safety plans that detail how safe working conditions for observers are incorporated into deck sorting operations on each participating vessel;
- 3) Establish a time limit for deck sorting of 35 minutes per haul (because the application does not state who would run the timer, this detail would have to be resolved in the permit, should a permit be granted);
- 4) Standardize chutes used to move fish on deck so only one flow of fish is used to move halibut to the observer;
- 5) Make optional, the census of halibut in the factory and transfer the responsibility for conducting the census from the observer to the vessel crew.

The applicant proposes to begin EFP fishing in January 2018 and end on December 31, 2019. The EFP would allow halibut to be sorted, sampled, and released prior to being weighed on a flow scale, to achieve the experimental objectives and reduce halibut mortality. This EFP application requests an amount of halibut PSC mortality for

vessels engaged in experimental fishing not to exceed the 2018 halibut PSC mortality apportionments set out in Table 14 of the Final 2017 and 2018 BSAI Harvest Specifications (available at [https://alaskafisheries.noaa.gov/sites/default/files/17\\_18bsaitable14.pdf](https://alaskafisheries.noaa.gov/sites/default/files/17_18bsaitable14.pdf)); and Table 14 and Table 15 of the Final 2017 and 2018 GOA Harvest Specifications (available at [https://alaskafisheries.noaa.gov/sites/default/files/17\\_18goatable14.pdf](https://alaskafisheries.noaa.gov/sites/default/files/17_18goatable14.pdf) and [https://alaskafisheries.noaa.gov/sites/default/files/17\\_18goatable15.pdf](https://alaskafisheries.noaa.gov/sites/default/files/17_18goatable15.pdf)). Participants request no additional groundfish or halibut quota as part of this EFP application, and all groundfish catch will accrue against the appropriate Amendment 80, CDQ, or trawl limited access sector catch and PSC allowances.

Participating vessels would procure and use NMFS-trained at-sea observers during EFP trips. Observers would perform all of their duties on work shifts not exceed 12 hours per observer.

Identical to methods in 2016 and 2017, observers would be able to enter and extrapolate data via the NMFS Catch Accounting System so PSC usage by EFP participants would be reported and tracked in near real-time along with non-EFP participants' usage and would accrue against the cooperative's halibut PSC mortality apportionments. If the halibut mortality apportionment is reached, the EFP permit holder would notify NMFS and end EFP fishing. As required by existing regulations, Amendment 80 fishing will also cease when the annual halibut mortality apportionment is reached.

Also identical to methods in 2016 and 2017, halibut that are not sorted on deck would flow to the factory and be available to the observer for sampling. The on-duty

observer would collect species composition samples per standard protocols to estimate the proportion of halibut in the haul relative to other species. The proportion of halibut estimated to be in the haul would be extrapolated to the total haul catch weight to estimate the total amount of halibut not sorted on deck. A mortality rate of 90 percent would be applied to the amount of halibut in the factory to estimate the halibut mortality from the factory. The resulting factory halibut mortality amount would be combined with the amount of halibut mortality estimated in the deck-sorted portion of the haul to estimate the total halibut mortality for each EFP haul.

The following example is provided as an illustration for how total halibut mortality would be calculated for a haul under the 2016 EFP. Assume a vessel catches 400 kilograms (kg) of halibut in one haul. Assume 92 percent of the halibut is removed on deck and the vessel achieves a halibut discard mortality of 50 percent by releasing these fish from deck. In this example, the amount of halibut mortality on deck is 184 kg. A halibut mortality of 90 percent is applied to the 32 kg of halibut that are sampled in the factory, resulting in a halibut mortality of 28.8 kg in the factory. In this example, the total halibut mortality for the haul is 212.8 kg.

The halibut mortality data collected by observers would be available to NMFS in near-real time for inseason management in 2018 and 2019. In addition to the observer samples, under the 2018 EFP, at the discretion of the vessel operator, vessel crew could conduct a census (a full count) of halibut in the factory, after they have been available to the observer for sampling, to compare observer estimates of total halibut and census results.

In 2018, EFP participants would continue to operate under a single catch handling and accounting method for all hauls on a fishing trip designated as an EFP trip. Operators of participating vessels would still have a way to opt out of sorting on deck when it is potentially unsafe or when the vessel has located a fishing area where halibut bycatch is very low.

This proposed action would exempt participating catcher/processors from selected 50 CFR part 679 prohibitions, and monitoring and observer requirements. Should the Regional Administrator issue a permit based on this EFP application, the conditions of the permit will be designed to minimize halibut mortality and any potential for biasing estimates of groundfish and halibut mortality. Vessels participating in EFP fishing may be exempt from, at minimum, the following regulations:

1. the prohibition against interfering with or biasing the sampling procedure employed by an observer including physical, mechanical, or other sorting or discarding of catch before sampling, at § 679.7(g)(2);
2. the requirements to weigh all catch by an Amendment 80 vessel on a NMFS-approved scale at § 679.93(c)(1) and by all vessels at § 679.28(b); and
3. the requirement to return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition at § 679.21(b)(2)(ii).

In 2020, the AKSC would be required to submit to NMFS a report of the EFP results after EFP experimental fishing has ended in 2019. The report would include a

comparison of halibut mortality from halibut sampled during the EFP and an estimate of halibut mortality under standard IPHC halibut mortality rates for those target fisheries.

Under the EFP, participants would be limited to their groundfish allocations under the 2016 harvest specifications. The amount of halibut mortality applied to the EFP activities would be subject to review and approval by NMFS.

This EFP would be valid upon issuance in 2018 until either the end of 2019 or when the annual halibut mortality apportionment is reached in areas of the BSAI and GOA open to directed fishing by the various sectors. EFP-authorized fishing activities would not be expected to change the nature or duration of the groundfish fishery, gear used, or the amount or species of fish caught by the participants.

The fieldwork that would be conducted under this EFP is not expected to have a significant impact on the human environment as detailed in the categorical exclusion prepared for this action (see **ADDRESSES**).

In accordance with § 679.6, NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its October 2017 meeting, which will be held at the Hilton Hotel, Anchorage AK. The EFP application will also be provided to the Council's Scientific and Statistical Committee for review at the October Council meeting. The applicant has been invited to appear in support of the application.

### **Public Comments**

Interested persons may comment on the application at the February 2016 Council meeting during public testimony or until **[INSERT DATE 15 DAYS AFTER DATE OF**

**PUBLICATION IN THE FEDERAL REGISTER**]. Information regarding the meeting is available at the Council's website at <http://www.npfmc.org>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments also may be submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: September 18, 2017.

**Emily H. Menashes,**

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*Office of Sustainable Fisheries,*

*National Marine Fisheries Service.*

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